

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ALACRITECH, INC., §
§
§
Plaintiff, §
§
v. § Civil Action No. 2:16-CV-00693-RWS-RSP
§ (LEAD)
CENTURYLINK, INC., §
§
Defendants. §
§
§

AMENDED DOCKET CONTROL ORDER

In light of the unopposed motion to amend the docket control order, Dkt. No. 547, the Court
ORDERS that the following deadlines are in effect until further order of the Court.

Original Date	Amended Date	Event
October 16, 2023		*Jury Selection – 9:00 a.m. in Marshall, Texas before Judge Robert Schroeder
September 28, 2023		*Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Roy Payne
September 14, 2023		<p>*Notify Court of Agreements Reached During Meet and Confer</p> <p>The parties are ordered to meet and confer on any outstanding objections or motions in limine. The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three(3) business days before the pretrial conference.</p>

September 7, 2023		*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, and Responses to Motions in Limine
September 7, 2023		<p>*File Notice of Request for Daily Transcript or Real Time Reporting.</p> <p>If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.</p>
September 1, 2023		Serve Objections to Rebuttal Pretrial Disclosures
August 18, 2023		<p>File Motions <i>in Limine</i></p> <p>The parties shall limit their Motions <i>in Limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.</p>
August 11, 2023		Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
July 21, 2023		Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
July 21, 2023		<p>Deadline to Complete Mediation –All Parties</p> <p>The parties are responsible for ensuring that a mediation report is filed no later than 5 days after the conclusion of mediation.</p>
June 23, 2023		<p>*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)</p> <p>No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.</p>

June 2, 2023		*File Dispositive Motions No dispositive motion may be filed after this date without leave of the Court. Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances.</u> Exceptional circumstances require more than <u>agreement among the parties.</u>
May 26, 2023		Deadline to Complete Expert Discovery
May 5, 2023		Serve Rebuttal Expert Reports (limited to responding to supplemental expert reports)
April 14, 2023		Serve Supplemental Expert Reports on Infringement and Damages
April 7, 2023	April 14, 2023	Motions to Compel Supplemental Discovery As To Cavium, Alacritech and Crown Point only.
March 31, 2023		Deadline to Supplemental Discovery (damages and liability)
December 19, 2022		Deadline to Meet and Confer Regarding Supplemental Discovery (damages and liability)

(*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

ADDITIONAL REQUIREMENTS

Notice of Mediator: The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.

Summary Judgment Motions: For each motion, the moving party shall provide the Court with two (2) copies of the completed briefing (opening motion, response, reply, and if applicable, surreply), excluding exhibits, in D-three-ring binders, appropriately tabbed. All documents shall be single-sided and must include the CM/ECF header. For expert-related motions, complete digital

copies of the relevant expert report(s) and accompanying exhibits shall submitted on a single flash drive. These copies shall be delivered as soon as briefing has completed.

Indefiniteness: In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their Markman briefing, subject to the local rules' normal page limits.

Motions for Continuance: The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

Amendments to the Docket Control Order (“DCO”): Any motion to alter any date on the DCO shall take the form of a motion to amend the DCO. The motion to amend the DCO shall include a proposed order that lists all of the remaining dates in one column (as above) and the proposed changes to each date in an additional adjacent column (if there is no change for a date the proposed date column should remain blank or indicate that it is unchanged). In other words, the DCO in the proposed order should be complete such that one can clearly see all the remaining deadlines and the changes, if any, to those deadlines, rather than needing to also refer to an earlier version of the DCO.

SIGNED this 19th day of April, 2023.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE